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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO	
10/614,450	07/07/2003	Stan Batiste	5-1574-018	7504	
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STURM & FIX LLP			BIANCO, PATRICIA		
206 SIXTH AV SUITE 1213	VENUE		ART UNIT	PAPER NUMBER	
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DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary    District   Distric								
Examiner Patricia M. Blanco 3761  - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Exhaustion of time may be available under the provisions of 37 CPR 1.736(b), fine event, however, may a reply be timely fixed.  - If No period for reply is specified swore, the maintains dution yellor dution, the provision of time in the second of price of the provision of the communication. Period of the provision of the provision of the communication is provided period of the provision of the second of price of the maintain date of this communication.  - Fallue to reply within the sect or extended period for reply will, by disturble, cause the application to become ABANDONED (35 U.S.C. § 133). Second patent for maintain the maintain date of this communication, even if timely fixed, may reduce may caused patent form adjustment. See 37 CPR 1.70(b).  - Status  1) Responsive to communication(s) filed on OT July 2003.  2(a) This action is FINAL.  2(b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-5 Is/are pending in the application.  4) Claim(s) 1-5 Is/are pending in the application.  4) Claim(s) 1-5 Is/are allowed.  5) Claim(s) 1-5 Is/are are pending in the application.  4) Claim(s) 1-5 Is/are are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on Is/are objected to by the Examiner.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on Is/are objected to by the Examiner.  10) The drawing(s) filed on Is/are objected to by the Examiner.  1		Application No.	Applicant(s)					
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WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Eletracisor of time may be available under the provisible under the provisible under the provisible under the provisible under the provision of 37 cPR 1.13(e). In a event, however, may a reply be filterly filed after SX (6) MONTHS from the mailing date of this communication.  Faither is reply received by the Office later than these months after the mailing date of this communication, even if timely filed, may reduce any seamed patent term subjection to the communication of the mailing date of this communication, even if timely filed, may reduce any seamed patent term subject to extend the time of the mailing date of this communication, even if timely filed, may reduce any seamed patent term subject to extend the mailing date of this communication, even if timely filed, may reduce any seamed patent term subject to extend the mailing date of this communication, even if timely filed, may reduce any seamed patent term subject to restrict on a constant term subject to extend the mailing date of this communication, even if timely filed, may reduce any seamed patent term subject to filed the mailing date of this communication, even if timely filed, may reduce any seamed patent term subject to filed the mailing date of this communication.  1) ■ Responsive to communication(s) filed on <i>g. July 2003</i> .  2a) ■ This action is FINAL.  2b) ■ This action is non-final.  3) ■ Since this application is in condition for allowance except for formal matters, prosecution as to the ments is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) ○ Claim(s) <i>J. Sis/are</i> pending in the application.  4) ○ Claim(s) <i>J. Sis/are</i> pending in the application.  4) ○ Claim(s) <i>J. Sis/are</i> pending in the application from consideration.  5) □ Claim(s) <i>J. Sis/are</i> and lower.  6) □ Claim(s) <i>J. Sis/are</i> and lower.  7) ○ Claim(s) <i>J. Sis/are</i> and lower.  8) □ Claim(s) <i>J. Sis/are</i> and lower.  8) □ Claim(s) <i>J. Sis/are</i>	The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address					
1) ⊠ Responsive to communication(s) filed on <i>07 July 2003</i> .  2a	<ul> <li>WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.</li> <li>Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any</li> </ul>							
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#### **DETAILED ACTION**

## Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it includes improper language, namely "adapted to" and "comprises" in the body of the abstract. Correction is required. See MPEP § 608.01(b).

## Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Buselmeier (3,826,257). Buselmeier discloses a prosthetic shunt or graft device that may be used in hemodialysis to remove blood from and return blood to a patient after being treated by a dialysis machine. The device is a tubular body having an inlet and outlet at each end (17'), and an intermediate segment (33) that is tapered and therefore has a reduced inner diameter. The tapering results in a more narrow end, which is seen to be equivalent to applicant's gradually diminishing segment, and has a larger diameter end which is seen to be equivalent to applicant's gradually expanded segment. See Figure 10.

Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Stanish (6,585,762). Stanish discloses an arteriovenous graft. The graft (210/310) has a tubular body having an inlet and outlet at each end, and an intermediate segment (223+240+233 or 323+340+333) that is tapered and therefore has a reduced inner diameter. The tapering results in a more narrow end (223 or 233/323 or 333), which is seen to be equivalent to applicant's gradually diminishing segment, and has a larger diameter section (240/340) which is seen to be equivalent to applicant's gradually expanded segment.

## Allowable Subject Matter

Claims 4 & 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the

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base claim and any intervening claims. The subject matter that was not found is the intermediate portion comprising an abrupt crimped segment in combination with the other elements (or steps) in the claims.

## Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Zarate (5,849,036), Nunez et al. (5,800,514), Gelman (6,146,416), Dossa (6,338,724), Yang et al. (6,371,981), & Harris et al. (6,589,278) all discloses similar vascular grafts that have segments with variable diameters.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia M. Bianco whose telephone number is (571) 272-4940. The examiner can normally be reached on Monday to Friday 9:00-6:30, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

November 23<sup>rd</sup>, 2005

Patricia M Bianco Primary Examiner Art Unit 3761

